

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

Theron Johnny Maxton, #140384,)	Civil No. 0:05-2009-DCN-BM
)	
Plaintiff,)	
)	
vs.)	<u>O R D E R</u>
)	
Linda Martin, Grievance Clerk at)	
Allendale Correctional Institution;)	
Kenneth Long, Grievance Clerk at)	
Allendale Correctional Institution;)	
NFN Broadwater, Nurse at Allendale)	
Correctional Institution; T. Byrne, Doctor at)	
Allendale Correctional Institution,)	
NFN McFadden, Nurse at Allendale)	
Correctional Institution; Mary Coleman,)	
SCDC Grievance Branch Chief,)	
George Hagan, Warden of Allendale,)	
)	
Defendants.)	
)	

The above referenced case is before this court upon the magistrate judge's recommendation that the non-medical claims set forth in plaintiff's complaint be dismissed without prejudice under the "three strikes" rule of 28 U. S. C. 1915(g). It was further recommended that with respect to plaintiff's medical claims, the defendants' motion for summary judgment be granted and that those claims be dismissed, with prejudice.

This Court is charged with conducting a de novo review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the

district court to review the factual and legal conclusions of the magistrate judge. Thomas v Arn, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court level. United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).¹ No objections have been filed to the magistrate judge's report and recommendation.

A de novo review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, the magistrate judge's report and recommendation is **affirmed**, and the non-medical claims set forth in the complaint are **dismissed** without prejudice under the "three strikes" rule of 28 U.S.C. 1915(g). Further, with respect to the plaintiff's medical claims, the defendants' Motion for Summary Judgment is **granted** and those claims are **dismissed** with prejudice.

AND IT IS SO ORDERED.



David C. Norton
United States District Judge

Charleston, South Carolina
March 20, 2006

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.

¹In Wright v. Collins, 766 F.2d 841 (4th Cir. 1985), the court held "that a pro se litigant must receive fair notification of the consequences of failure to object to a magistrate judge's report before such a procedural default will result in waiver of the right to appeal. The notice must be 'sufficiently understandable to one in appellant's circumstances fairly to appraise him of what is required.'" Id. at 846. Plaintiff was advised in a clear manner that his objections had to be filed within ten (10) days, and he received notice of the consequences at the appellate level of his failure to object to the magistrate judge's report.